

AMENDED IN ASSEMBLY MARCH 29, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1072

Introduced by Assembly Member Cedillo

February 23, 2001

An act to add Section 17070.72 to the Education Code, relating to school facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1072, as amended, Cedillo. School facilities: lease assistance.

Existing law, the Leroy F. Greene School Facilities Act of 1998, establishes a program for allocation by the State Allocation Board of prescribed state funding to school districts for new construction and modernization of school facilities, including hardship funding, and supplemental funding for site development and acquisition. The law permits funding for construction or modernization upon lease property if prescribed conditions are met, including, but not limited to, the requirement that the lease be for a term of not less than 25, 30, or 40 years. Existing law does not permit reimbursement of lease costs as an eligible project.

This bill would, notwithstanding other provisions of law, authorize *new construction or modernization upon real property leased to the school district, if prescribed conditions are met. The bill would authorize* a school district to elect to receive its funding eligibility in the form of lease assistance if prescribed conditions are met, ~~including, but not limited, to the requirement that the school district is located in an area in which land suitable for school purposes is scarce or unavailable.~~

This bill would ~~establish a separate~~ *require* lease assistance funds to be held in trust ~~account within~~ by the county school facilities fund for deposit of lease assistance funds apportioned by the board treasurer for the benefit of the school district. The bill would require ~~recording of the lease with the county recorder, and would require the county treasurer to hold the funds in trust for the purpose of making the lease payment or payments as prescribed and to account to the board on the condition of the trust annually, including a final accounting within 60 days after the account has been exhausted.~~ By requiring performance of these duties, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1.—The Legislature finds and declares all of the~~
- 2 *SECTION 1. Section 17070.72 is added to the Education*
- 3 *Code, to read:*
- 4 *17070.72. (a) Notwithstanding any other provision of law,*
- 5 *including, but not limited to, subdivisions (a) and (c) of Section*
- 6 *17070.70, new construction or modernization funded pursuant to*
- 7 *this chapter may be upon real property leased to the applicant*
- 8 *school district in accordance with Section 17244 provided the*
- 9 *board determines that the use of leased property for school housing*
- 10 *is the best available alternative for alleviating overcrowding*
- 11 *within the school district applying for the funding, and provided*
- 12 *either of the following conditions are met:*

1 (1) *The enrollment in the district as a whole or the attendance*
2 *area in which the leased property or facility is to be located is*
3 *projected in five years to be at least 20 percent unhoused.*

4 (2) *The attendance area in which the leased property is to be*
5 *located is projected in five years to have an unhoused pupil*
6 *population of 5,000 or more.*

7 (b) *The applicant school district, and the facility on leased*
8 *land, if any, shall comply with all laws pertaining to the*
9 *construction, reconstruction, or alteration of, or addition to,*
10 *schoolsites and school buildings.*

11 (c) *The State Allocation Board may apportion funds under this*
12 *chapter to the applicant school district to fund the costs of*
13 *developing and leasing leased property. In addition to funding for*
14 *the sums necessary for site development, new construction on a*
15 *leased site, or conversion of an existing facility to school use, a*
16 *district shall be eligible to receive funding for lease payments for*
17 *buildings and land, provided that the funding shall not exceed 50*
18 *percent of the net present value of the lease payments over the life*
19 *of the lease, calculated using a discount rate equivalent to the*
20 *risk-free rate or 50 percent of the appraised value of the site at the*
21 *time an application for apportionment is made, whichever is less.*

22 (d) *For each school district that elects to receive its eligibility*
23 *funding as lease assistance pursuant to this section, all of the*
24 *following conditions shall be complied with:*

25 (1) *Funds apportioned by the board for lease payments*
26 *pursuant to this section, together with the school district's share of*
27 *the lease payments, shall be deposited in the county school*
28 *facilities fund for school districts electing to receive that funding.*

29 (2) *The funds shall be held in trust for the benefit of the school*
30 *district by the county treasurer.*

31 (3) *The board shall provide the county treasurer with*
32 *instructions on the making of the lease payment or payments on*
33 *behalf of the school district pursuant to the lease agreement.*

34 (4) *The county treasurer shall provide an annual accounting to*
35 *the board on the condition of the lease assistance funding,*
36 *including a final accounting within 60 days after the account has*
37 *been exhausted.*

38 ~~*following:*~~

39 ~~*(a) Urban areas in need of new school construction may not*~~
40 ~~*have land available for new schoolsites.*~~

~~(b) These areas suffer great educational needs, and opportunities for classroom space may be available in the form of rented or leased units.~~

~~(c) The State Allocation Board should have the ability to review lease requests from high density, crowded urban school districts and apportion funding for the purposes of new school spaces in these areas.~~

~~SEC. 2.—Section 17070.72 is added to the Education Code, to read:~~

~~17070.72. (a) Notwithstanding any provision of law, including, but not limited to, subdivision (c) of Section 17070.70, and subdivision (c) of Section 17070.71, a school district may elect to receive, and the board shall provide, its funding eligibility pursuant to this chapter in the form of lease assistance pursuant to this section if all of the following conditions are met:~~

~~(1) The school district is located in an area in which land suitable for school purposes is scarce or unavailable, and in order to provide school facilities in the communities that need them within close proximity to the pupils, the school district must use leased land.~~

~~(2) The lease is a long term lease that is in compliance with subdivisions (a) and (b) of Section 17070.70, and with subdivisions (a) and (b) of Section 17070.71.~~

~~(3) The board finds that the lease is necessary for the school district to avoid long commutes for pupils and that the amount, terms, and conditions, as set forth in the long term lease agreement, are reasonable under the circumstances.~~

~~(b) Notwithstanding any provision of law, the lease shall be recorded by the school district in the office of the county recorder of the county in which the land is situated in the same manner as other grants of real property. Any recorded instrument pursuant to this section shall constitute a lien upon the property and shall impart notice of its contents to, and the terms of the lease shall be binding upon, each subsequent purchaser and encumbrancer, notwithstanding any defect, omission, or informality.~~

~~(c) A separate lease assistance trust account is hereby established within the county school facilities fund established pursuant to Section 17070.43 for each school district within that county that elects to receive its eligibility grant for lease assistance pursuant to this section.~~

1 ~~(d) For each school district that elects to receive its eligibility~~
2 ~~funding as lease assistance pursuant to this section, all of the~~
3 ~~following conditions shall be complied with:~~

4 ~~(1) Funds apportioned by the board pursuant to this section to~~
5 ~~the county school facilities fund for school districts electing to~~
6 ~~receive funding for lease assistance shall be deposited in the~~
7 ~~separate lease assistance trust account established for that school~~
8 ~~district.~~

9 ~~(2) The board shall provide the county treasurer with~~
10 ~~instructions on the making the lease payment or payments on~~
11 ~~behalf of the school district pursuant to the long-term lease~~
12 ~~agreement.~~

13 ~~(3) The county treasurer shall hold these funds, including~~
14 ~~principal and any interest earned thereon, in trust for making the~~
15 ~~lease payment or payments as set forth in the long-term lease~~
16 ~~agreement pursuant to instructions provided by the board.~~

17 ~~(4) The county treasurer shall provide an annual accounting to~~
18 ~~the board on the condition of the lease assistance trust account,~~
19 ~~including a final accounting within 60 days after the account has~~
20 ~~been exhausted.~~

21 ~~SEC. 3~~

22 *SEC. 2.* Notwithstanding Section 17610 of the Government
23 Code, if the Commission on State Mandates determines that this
24 act contains costs mandated by the state, reimbursement to local
25 agencies and school districts for those costs shall be made pursuant
26 to Part 7 (commencing with Section 17500) of Division 4 of Title
27 2 of the Government Code. If the statewide cost of the claim for
28 reimbursement does not exceed one million dollars (\$1,000,000),
29 reimbursement shall be made from the State Mandates Claims
30 Fund.